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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/847,644	05/02/2001	Jared Polis Schutz	Proflowers-P2-01	1018

7590 12/31/2003
Peter K. Trzyna
P.O. Box 7131
Chicago, IL 60680-7131

EXAMINER

LAMB, TWYLER MARIE

ART UNIT	PAPER NUMBER
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2622

DATE MAILED: 12/31/2003

15

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/847,644

Applicant(s)

POLIS SCHUTZ ET AL.

Examiner

Twyler M. Lamb

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 September 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- ☐ Interview Summary (PTO-413) Paper No(s). _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Notice to Applicant (s)

1. This action is responsive to the following communications: amendment A filed on 9/8/03.
2. This application has been reconsidered. Claims 1-27 are pending.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 1-27 are rejected under 35 U.S.C. 102(e) as being anticipated by Mellgren, III et al. (US 6,085,126).

With regard to claims 1, 11 and 21, Mellgren discloses a method for generating an ornamental design the method including the steps of: assigning shipping information signals corresponding to a waybill for a particular shipment with a courier computer

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shipping apparatus (central computer system 106) (col 3, lines 58-62); transmitting the shipping information signals corresponding to a non-courier printer device (which reads on submitting the information to the manufacturing operation) (col 5, lines 56-61); combining the shipping information signals with signals corresponding to an ornamental design (col 5, line 50 – col 6, line 2); and printing the waybill including the ornamental design, for the particular shipment at the non-courier printer device including an ornamental design (which reads on submitting the information to the manufacturing operation) (col 5, lines 56-61).

(Note: According to Webster's Dictionary, 1984, a waybill is defined as "a document containing a list of goods and shipping instructions relative to a shipment". Per this definition, Mellgren reads on the waybill.)

With regard to claims 2 and 12, Mellgren also discloses wherein the ornamental design includes a heart (which reads on creating a custom design, the design could be anything) (col 3, lines 43-46).

With regard to claims 3 and 13, Mellgren also discloses wherein the ornamental design includes a wreath (which reads on creating a custom design, the design could be anything) (col 3, lines 43-46).

With regard to claims 4 and 14, Mellgren also discloses wherein the ornamental design is printed in color (col 5, lines 38-42).

With regard to claims 5 and 15, Mellgren also discloses wherein the ornamental design is a printing of bit map, said bit map not including a logo, shipment, or courier

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information (which reads on creating a custom design, the design could be anything) (col 3, lines 43-46).

With regard to claims 6 and 16, Mellgren also discloses wherein the ornamental design is a first design and said first design includes a second design . (which reads on creating a custom design, the design could be anything) (col 3, lines 43-46)

With regard to claims 7 and 17, Mellgren also discloses further including the step of controlling addition of the design to the shipping label at an ordering system computer (which reads on a kiosk coupled to a central computer system via a network) (kiosk 102, col 3, lines 55-62).

With regard to claims 8 and 18, Mellgren also discloses further including the step of controlling addition of the design to the shipping label at an ordering center system computer (which reads on a kiosk coupled to a central computer system via a network) (kiosk 102, col 3, lines 55-62).

With regard to claims 9 and 19, Mellgren also discloses further including the step of controlling addition of the design to the shipping label at a financial institution system computer (which reads on a kiosk coupled to a central computer system via a network) (kiosk 102, col 3, lines 55-62).

With regard to claims 10 and 20, Mellgren also discloses further including the step of controlling addition of the design to the shipping label at a distribution center system (which reads on a kiosk coupled to a central computer system via a network) (kiosk 102, col 3, lines 55-62).

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With regard to claim 22, Mellgren also discloses wherein said at least two members are printed on the same sheet (which reads on creating a custom design, the design could be anything) (col 3, lines 43-46).

With regard to claim 23, Mellgren also discloses wherein all said members are printed on the same sheet (which reads on creating a custom design, the design could be anything) (col 3, lines 43-46).

With regard to claim 24, Mellgren also discloses further including the steps of: combining ornamental design signals with signals for printing another member of the group (which reads on creating a custom design, the design could be anything) (col 3, lines 43-46); and printing the member of the group, including the ornamental design, for the particular shipment at the shipper printer device (which reads on submitting the information to the manufacturing operation) (col 5, lines 56-61).

The limitations of claims 25-27 are addressed in the rejections above.

Response to Arguments

5. The Double Patent Rejection is withdrawn, but with the addition of the definition from Webster's. The remaining rejections stand.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Twyler Lamb whose telephone number is 703 - 305-8823. The examiner can normally be reached on M-TH (8:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward L Coles can be reached on 703-305-4712. The fax phone numbers

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for the organization where this application or proceeding is assigned are 703-746-6036

for regular communications and 703-872-9314 for After Final communications.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, DC 20231

or faxed to:

(703) 872-9314

(for informal or draft communications, such as proposed amendments to be discussed at an interview; please label such communications "PROPOSED" or "DRAFT")

or hand-carried to:

Crystal Park Two

2121 Crystal Drive

Arlington, VA.

Sixth Floor (Receptionist)

Twyler Lamb

A handwritten signature in black ink, appearing to be 'T. Lamb' or similar, written in a cursive style.

December 29, 2003